

## Part 3

### Powers and Duties of Commissioner of Financial Institutions

#### 7-1-301 Powers and duties of commissioner -- Rulemaking.

Without limiting the other powers, duties, and responsibilities specified in this title, the commissioner has the functions, powers, duties, and responsibilities with respect to an institution, person, or business subject to the jurisdiction of the department contained in this title, including the functions, powers, duties, and responsibilities described in Subsections (1) through (15).

- (1) The commissioner may govern the administration and operation of the department.
- (2) The commissioner may supervise the conduct, operation, management, examination, and statements and reports of examinations of financial institutions and other persons subject to the jurisdiction of the department.
- (3)
  - (a) The commissioner may authorize a state chartered depository institution to engage in any activity it could engage in, and to grant to that institution all additional rights, powers, privileges, benefits, or immunities it would possess, if it were chartered under the laws of the United States.
  - (b) The commissioner may authorize a depository institution chartered by this state to engage in any activity that a Utah branch of an out-of-state depository institution of the same class can engage in, and to grant to the Utah institution all additional rights, powers, privileges, benefits, or immunities it needs to engage in the activity.
  - (c) In granting authority under this Subsection (3), the commissioner shall consider:
    - (i) the need for competitive equality between institutions chartered by this state and institutions operating in this state that are chartered by another state or by the federal government; and
    - (ii) the adverse effect on shareholders, members, depositors, and other customers of financial institutions chartered by this state if equal power and protection of those institutions, compared with federally chartered or out-of-state institutions of the same class, are not promptly available.
- (4) The commissioner may safeguard the interest of shareholders, members, depositors, and other customers of institutions and other persons subject to the jurisdiction of the department.
- (5)
  - (a) The commissioner may establish criteria consistent with this title to be applied in granting applications for approval of:
    - (i) a new institution;
    - (ii) a new branch;
    - (iii) the relocation of an office or branch;
    - (iv) a merger;
    - (v) a consolidation;
    - (vi) a change in control of an institution or other person subject to the jurisdiction of the department; and
    - (vii) other applications specified in this title.
  - (b) The criteria established under Subsection (5)(a) may not be applied to make it more difficult for a state chartered institution to obtain approval of an application than for a federally chartered institution in the same class to obtain approval from the appropriate federal regulatory agency or administrator.
- (6)

- (a) The commissioner may protect the privacy of the records of any institution subject to the jurisdiction of the department pertaining to a particular depositor or other customer of the institution. Rules adopted under this Subsection (6) shall be consistent with federal laws and regulations applicable to the institution.
  - (b) An institution that consents to produce records or that is required to produce records in compliance with a subpoena or other order of a court of competent jurisdiction or in compliance with an order obtained pursuant to Sections 7-1-1001 through 7-1-1007 shall be reimbursed for the cost of retrieval and reproduction of the records by the party seeking the information. The commissioner may by rule establish the rates and conditions under which reimbursement is made.
- (7)
- (a) The commissioner may classify the records kept by institutions subject to the jurisdiction of the department and to prescribe the period for which each class of records is retained.
  - (b) Rules adopted under this Subsection (7) for any class of financial institution shall be consistent with federal laws and regulations applicable to the class.
  - (c) Rules made under this Subsection (7) shall provide that:
    - (i) An institution may dispose of any record after retaining it for the period prescribed by the commissioner for retention of records of its class. If an institution disposes of a record after the prescribed period, the institution has no duty to produce it in any action or proceeding and is not liable to any person by reason of that disposition.
    - (ii) An institution may keep records in its custody in the form of microfilm or equivalent reproduction. A reproduction has the same force and effect as the original and shall be admissible into evidence as if it were the original.
  - (d) In adopting rules under this Subsection (7), the commissioner shall take into consideration:
    - (i) actions at law and administrative proceedings in which the production of the records might be necessary or desirable;
    - (ii) state and federal statutes of limitation applicable to the actions or proceedings;
    - (iii) the availability from other sources of information contained in these records; and
    - (iv) other matters the commissioner considers pertinent in formulating rules that require institutions to retain their records for as short a period as commensurate with the interest in having the records available of:
      - (A) customers, members, depositors, and shareholders of the institutions; and
      - (B) the people of this state.
- (8)
- (a) The commissioner may establish reasonable classes of depository and other financial institutions including separate classes for:
    - (i) banks and related institutions;
    - (ii) credit unions; and
    - (iii) industrial banks.
  - (b) If the restrictions or requirements the commissioner imposes are not more stringent than those applicable under federal law or regulation to federally chartered institutions of the same class, the commissioner may establish the following for each class in a manner consistent with this title:
    - (i) eligible classes and types of investments for the deposits and other funds of those financial institutions;
    - (ii) minimum standards, in amounts sufficient to protect depositors and other creditors, for the amount and types of capital required to engage in the business conducted by each class or to obtain a license or to establish a branch or additional office of an institution of each class;

- (iii) eligible obligations, reserves, and other accounts to be included in the computation of capital;
- (iv) minimum liquidity requirements for financial institutions within each class in amounts sufficient to meet the demands of depositors and other creditors for liquid funds;
- (v) limitations on the amount and type of borrowings by each class of financial institution in relation to the amount of its capital and the character and condition of its assets and its deposits and other liabilities;
- (vi) limitations on the amount and nature of loans and extensions of credit to a person or related persons by each class of financial institution in relation to the amount of its capital; and
- (vii) limitations on the amount and nature of loans and extensions of credit by a financial institution or other person within each class to an executive officer, director, or principal shareholder of:
  - (A) the institution or other person;
  - (B) a company of which the institution or other person is a subsidiary;
  - (C) a subsidiary of the institution or other person;
  - (D) an affiliate of the institution; and
  - (E) a company controlled by an executive officer, director, or principal shareholder of the institution.
- (9) The commissioner may define unfair trade practices of financial institutions and other persons subject to the jurisdiction of the department and to prohibit or restrict these practices.
- (10) The commissioner may establish reasonable standards to promote the fair and truthful advertising of:
  - (a) services offered by a financial institution;
  - (b) the charges for the services advertised under Subsection (10)(a);
  - (c) the interest or other compensation to be paid on deposits or any debt instrument offered for sale by the institution;
  - (d) the nature and extent of any:
    - (i) insurance on deposits;
    - (ii) savings accounts;
    - (iii) share accounts;
    - (iv) certificates of deposit;
    - (v) time deposit accounts;
    - (vi) NOW accounts;
    - (vii) share draft accounts;
    - (viii) transaction accounts; or
    - (ix) any evidence of indebtedness issued, offered for sale, offered to sell or sold by a financial institution or other person subject to the jurisdiction of the department; and
  - (e) the safety or financial soundness of a financial institution or other person subject to the jurisdiction of the department.
- (11) The commissioner may define what constitutes an impairment of capital for each class of financial institution or other person subject to the jurisdiction of the department.
- (12) The commissioner may designate days on which depository institutions are closed in accordance with Section 7-1-808.
- (13) The commissioner may regulate the issuance, advertising, offer for sale, and sale of a security to the extent authorized by Section 7-1-503.
- (14) The commissioner may require the officers of an institution or other person subject to the commissioner's jurisdiction to open and keep a standard set of books, computer records, or both for the purpose of keeping accurate and convenient records of the transactions

and accounts of the institution in a manner to enable the commissioner, supervisors, and department examiners to readily ascertain the institution's true condition. These requirements shall be consistent with generally accepted accounting principles for financial institutions.

- (15) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may issue rules consistent with the purposes and provisions of this title, and may revise, amend, or repeal the rules adopted.

Amended by Chapter 73, 2013 General Session

**7-1-302 Review of supervisor's action by commissioner.**

The commissioner shall review, upon written request of the institution or other person affected, any act or order of a supervisor and may suspend, modify, or revoke any such act or order as he may find to be arbitrary, capricious, contrary to law or the rules and regulations of the department, or not in the best interest of the public or of the state.

Enacted by Chapter 16, 1981 General Session

**7-1-303 Joint operations and information exchange by institutions.**

The commissioner may authorize institutions subject to the jurisdiction of the department to engage in such joint and cooperative actions as the commissioner finds will be in the public interest, including:

- (1) mutual exchange of financial information as to depositors, borrowers, and other customers;
- (2) joint use of facilities;
- (3) joint operation of clearing houses and other facilities for payment of checks, drafts, or other instruments drawn on or issued by various classes of depository institutions;
- (4) joint participation in lending programs to promote the public welfare;
- (5) joint risk management services; and
- (6) joint ownership, operation, or furnishing of electronic funds transfer services.

Amended by Chapter 378, 2010 General Session

**7-1-304 Civil actions against unauthorized operations.**

The commissioner may bring any appropriate civil action to prevent or restrain any person from engaging in this state in any business subject to the jurisdiction of the department without first having obtained the authority to do so as provided in this title or from violating any other provisions of this title or any rule, regulation, or order of the commissioner.

Enacted by Chapter 16, 1981 General Session

**7-1-305 Final decisions on applications for new institutions, branches, relocation, merger, consolidation, acquisition and changes in control of financial institutions.**

The commissioner shall make final decisions consistent with the purposes and provisions of this title on behalf of the department upon all applications to the department for approval of new institutions, branches, relocation, mergers or consolidation, acquisitions and changes in control of institutions subject to the jurisdiction of the department.

Enacted by Chapter 16, 1981 General Session

**7-1-307 Cease and desist orders -- Procedure for issuance.**

- (1) If the commissioner has determined that any institution or other person under the jurisdiction of the department, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or other person, is engaging or has engaged or that the commissioner has reasonable cause to believe is about to engage in an unsafe or unsound practice in conducting the business of such institution or other person, or is violating or has violated or the commissioner has reasonable cause to believe is about to violate any applicable provision of this title, or any rule, regulation, order, or any condition imposed in writing by the commissioner in the granting of any application or other request by the institution or other person, or any written agreement entered into with the commissioner, the commissioner may, after notice and opportunity for hearing, issue a cease and desist order against such institution or other person.
- (2) If the commissioner has determined that any institution or other person under the jurisdiction of the department or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or other person is engaging in any unsafe or unsound practice or is violating any relevant provision of this title, or any rule, regulation, order, or any condition imposed in writing by the commissioner which the commissioner determines threatens the safety and soundness of the institution or other person, the commissioner may issue a temporary cease and desist order. A temporary cease and desist order is effective immediately upon issuance for 30 days and may be extended by the commissioner in writing for two consecutive 15-day periods. A hearing on the temporary cease and desist order shall be held by the commissioner within 10 days of its issuance, at which time the temporary cease and desist order may be set aside, modified, terminated, or made final.

Enacted by Chapter 8, 1983 General Session

**7-1-308 Suspension or removal of director or officer -- Grounds -- Procedure for issuance of order.**

- (1)
  - (a) If the commissioner has determined that any officer or director of an institution or other person under the jurisdiction of the department has:
    - (i) violated any law, rule, regulation, or a cease and desist order which has become final;
    - (ii) engaged or participated in any unsafe or unsound practice in the conduct of the affairs of the institution or other person;
    - (iii) committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as an officer or director;
    - (iv) been charged in any information, indictment, or complaint authorized by a county attorney, a district attorney, or the attorney general of the state relative to a violation of this title; or
    - (v) been charged with the commission of or participation in a crime involving dishonesty or breach of trust; and
  - (b) if the commissioner determines that:
    - (i) the institution or other person under the jurisdiction of the department has suffered or will suffer substantial financial loss or other damage due to such actions and that such action may impair the safety and soundness of the institution or other person or prejudice in any manner the interests of the depositors, members, creditors, or shareholders; or
    - (ii) the director or officer has received financial gain by reason of any breach of fiduciary duty; the commissioner may, after notice and opportunity for hearing, serve upon such director or

officer a written notice of suspension or removal of the individual from office or prohibition from further participation in the conduct of the affairs of the institution or other person.

- (2) If the commissioner deems it necessary for the protection of an institution or other person under the jurisdiction of the department or the interests of its depositors, members, creditors, or shareholders, he may, by written notice served upon the officer or director, suspend that officer or director from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution or other person. The suspension or prohibition is effective upon service of the notice and, unless stayed by a court, shall remain in effect until the commissioner dismisses the charges specified in the notice, or, if an order of removal or prohibition is issued against the officer or director, until the effective date of that order.

Amended by Chapter 38, 1993 General Session

**7-1-309 Hearings by commissioner -- Discretion of commissioner -- Procedure -- Judicial review.**

The commissioner may conduct or cause to be conducted hearings relating to matters within his supervisory jurisdiction and shall establish rules for discovery and other procedures applicable to the hearings consistent with the provisions of the Utah Rules of Civil Procedure. The decision whether or not to hold a formal hearing on any matter coming before the commissioner under this title shall be solely within the discretion of the commissioner. His failure or refusal to hold a formal hearing is not a ground for reversal of any decision or order of the commissioner unless the reviewing court finds that such failure or refusal has deprived an interested party of due process of law, or that a formal hearing is required by the provisions of this title.

Amended by Chapter 378, 2010 General Session

**7-1-310 Subpoena power of commissioner.**

The commissioner may issue subpoenas to compel the attendance of witnesses and the production of books, records, and other papers and documents and may examine or cause to be examined under oath any officer, director, or employee of any institution subject to the jurisdiction of the department or any other person whose testimony he finds relevant to any matter before him or whose testimony is necessary or appropriate in carrying out his duties and responsibilities.

Enacted by Chapter 16, 1981 General Session

**7-1-311 Moratoriums on applications for new depository institutions or branches.**

The commissioner may establish, upon finding that applicable financial and economic conditions require such action, a moratorium on accepting or acting upon applications to conduct a business of depository institutions subject to the jurisdiction of the department or to establish new branches or offices of institutions subject to the jurisdiction of the department. The moratorium may apply to the entire state or to such community or communities or other market area or areas as the commissioner finds appropriate. No such period shall extend for a period longer than one year, unless the commissioner finds that the public interest requires renewal of the period for an additional period not to exceed one year.

Enacted by Chapter 16, 1981 General Session

**7-1-312 Reports required of large stockholders of financial institutions as to loans secured by stock.**

The commissioner may require any person owning or acquiring 25% or more of the outstanding capital stock of any depository institution subject to his jurisdiction, or 25% or more of the stock of any corporation having control of the institution, to report to him any borrowing by that person which is secured by that stock and to report to him the terms of the borrowing. This section applies only if the purpose for the borrowing was to acquire control of the institution or any other depository institution.

Enacted by Chapter 16, 1981 General Session

**7-1-313 Requiring remedial action by institution in or about to be in unsound condition -- Assistance by insurers.**

- (1) The commissioner may require any financial institution subject to the jurisdiction of the department that he finds to be or about to be in an unsafe or unsound condition to take corrective or remedial action as he considers appropriate to protect the interests of depositors, members, other creditors, and shareholders of the institution, and the general public.
- (2) An insurer of the accounts of a financial institution may make loans to, purchase the assets of, establish accounts in, or provide other assistance to a financial institution in order to correct or remedy an unsafe or unsound condition or to protect the interests of depositors, members, other creditors, and shareholders of the institution. This assistance is subject to approval by the commissioner.

Amended by Chapter 267, 1989 General Session

**7-1-314 Examination of institutions by commissioner or supervisor.**

- (1) The commissioner or the responsible supervisor shall visit and examine or cause to be visited and examined every depository institution and such other institutions subject to the jurisdiction of the department as the commissioner considers necessary or advisable.
- (2) At every examination of a depository institution careful inquiry shall be made as to:
  - (a) the condition and resources of the institution examined;
  - (b) the mode of conducting and managing of its affairs;
  - (c) the actions of its directors and officers;
  - (d) the investment and disposition of its funds;
  - (e) the security offered to depositors and other customers;
  - (f) whether or not it is violating any provision of law relating to the institution or the business of the institution examined;
  - (g) whether or not it is complying with its articles of incorporation and bylaws; and
  - (h) such other matters as the commissioner may prescribe.
- (3) The commissioner may, in his discretion, accept examinations of any institution which are made by federal examiners or examiners from other states having jurisdiction over that institution in lieu of any examination required under the laws of this state.
- (4) The nature and extent of examination of institutions or other business entities not classified as depository institutions but otherwise subject to the jurisdiction of the department as provided in this title shall be such as the commissioner may determine to be necessary or appropriate in determining whether or not the business is being conducted in accordance with law and the regulations of the department.

Enacted by Chapter 16, 1981 General Session

**7-1-315 Examination by board of directors required -- Report.**

The commissioner may at any time require the board of directors of any or all institutions under his jurisdiction to fully examine or have fully examined the books, papers, and affairs of the institution of which they are directors and particularly the loans, discounts, and overdrafts of such institutions to ascertain the value and security thereof and the collateral security, if any, given in connection therewith and to inquire into such other matters as the commissioner may consider necessary and to have a report placed on file with the records of the institution, which report shall be subject to examination by the commissioner.

Enacted by Chapter 16, 1981 General Session

**7-1-316 Forms for reports required from institutions.**

The commissioner shall prescribe the forms for all reports required by law or regulation from financial institutions subject to the jurisdiction of the department and may change the forms at his discretion. The department shall furnish without charge upon the request of any such institution any blank form necessary or required by law.

Enacted by Chapter 16, 1981 General Session

**7-1-317 Reports of condition called for by commissioner.**

The commissioner may call upon any institution under the jurisdiction of the department for a report of its condition at the close of business on any day specified in the call within the preceding three months. The reports required shall be transmitted by the institution to the commissioner within 30 days after the date of the call. Reports prepared by an independent certified public accountant or reports accepted by supervisory agencies of the United States or other states shall be acceptable.

Enacted by Chapter 16, 1981 General Session

**7-1-318 Reports of condition -- Form -- Falsification or failure to file.**

- (1) Each institution under the jurisdiction of the department, including each out-of-state depository institution operating a branch in this state, shall provide a report of its condition to the department at least twice a year, as required by the commissioner. The commissioner may require an institution to provide more frequent reports as necessary.
- (2) The report shall be made according to the form prescribed by the commissioner and shall be verified by the oath or affirmation of the president or a vice president and attested by at least two directors.
- (3) It is a third degree felony for any officer, director, or employee of a financial institution to do any of the following:
  - (a) knowingly subscribe or cause to be made any false statement or report to the commissioner or department;
  - (b) knowingly subscribe or cause to be made any false entry in the books or accounts of the institution; or
  - (c) knowingly subscribe or exhibit false papers with intent to deceive any person authorized to examine the institution.



- (4) Each institution that fails or neglects to make a report within 30 days after receiving a call for any report required by this title, by an order of the commissioner, or by any rule of the department is subject to a penalty of \$50 a day for each day the report is past due. The commissioner may reduce or waive the penalty for good cause shown.
- (5) It is criminal perjury for any officer or employee of a financial institution under the jurisdiction of the department to willfully swear falsely in making an oath or affirmation concerning a report of the institution's condition.
- (6) For information purposes, and without being subject to penalties under state law, a federally chartered depository institution operating a main office or branch in this state shall provide to the department a copy of its regular report of condition filed with its chartering agency.

Amended by Chapter 49, 1995 General Session

**7-1-319 Notice to county attorney or district attorney of criminal violations -- Attorney general to conduct actions commenced by commissioner -- Assistance of county attorney or district attorney.**

The commissioner shall inform the county attorney or district attorney in the county in which the principal office of an institution is located of any violation of any provision of law which constitutes a misdemeanor or felony by an officer, director, or employee of any institution under his jurisdiction which shall come to his notice, and upon receipt of such information the county attorney or district attorney shall institute proceedings to enforce the provisions of the law. The attorney general shall conduct all actions, suits, and proceedings begun by the commissioner under authority of law and may call to his assistance the county attorney or district attorney of the county in which the action, suit, or proceeding is conducted, and it shall be the duty of the county attorney or district attorney to render such assistance as the attorney general may require.

Amended by Chapter 38, 1993 General Session

**7-1-320 Actions to enjoin violations -- Bond not required -- Recovery -- Attorney's fees.**

- (1) Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of this title or any rule, regulation, or order of the commissioner or the department, he may bring an action in an appropriate court of general jurisdiction to enjoin the acts or practices and to enforce compliance with this title or any rule or order issued under this title. Upon a proper showing, a permanent or temporary injunction, restraining order, or extraordinary writ shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the commissioner to post a bond.
- (2) If the court finds that the defendant in an action brought by the commissioner pursuant to this section has violated or is about to violate any provision of this title or any rule or order of the commissioner, the court may award to the department an amount not exceeding \$10,000 per day for each day the defendant was in violation. The court may also award the department reasonable attorney's fees.

Amended by Chapter 133, 1991 General Session

**7-1-321 Powers and duties of commissioner to carry out purposes of title.**

The commissioner shall have such other powers, duties, and responsibilities as shall be necessary or appropriate to carry out the provisions and purposes of this title and to prevent

evasion thereof, to promote and insure the safety, soundness, and stability of institutions subject to the jurisdiction of the department or to protect the interest of depositors and other customers of the institutions.

Enacted by Chapter 16, 1981 General Session

**7-1-322 Orders of commissioner -- Writing -- Service -- Contents -- Enforcement.**

Any order issued by the commissioner under authority of this title shall be in writing, delivered to the institution or institutions affected and shall state the findings of the commissioner and the action required. The order shall specify the effective date thereof, which may be immediate or may be at a later date, and such order shall remain in effect until withdrawn by the commissioner or until terminated by a court order. The order of the commissioner, upon application made on or after the effective date of the order by the commissioner to a court of general jurisdiction in the county in which the principal office of the institution is located, may be enforced ex parte and without notice by an order to comply entered by the court.

Enacted by Chapter 16, 1981 General Session

**7-1-323 Regulation of interstate operations -- Coordination of efforts.**

- (1) The commissioner may:
  - (a) examine, supervise, and regulate a branch operated in this state by a depository institution chartered by another state and take any action or issue any order with regard to that branch;
  - (b) examine, supervise, and regulate a branch operated in another state by a depository institution chartered by this state and take any action or issue any order with regard to that branch; and
  - (c) coordinate these activities with any other state or federal agency that shares jurisdiction over the institution.
- (2) The commissioner may coordinate the examination, supervision, and regulation of any depository institution chartered by this state with the examination, supervision, and regulation of an affiliated depository institution operating in another state.
- (3) The commissioner may take any reasonable and lawful action in furtherance of coordinating the regulation of interstate operations, including:
  - (a) negotiating and entering into cooperative agreements with an agency of another state or of the federal government;
  - (b) sharing information and reports in accordance with Section 7-1-802 with an agency that shares jurisdiction over the institution;
  - (c) accepting as sufficient, if appropriate, examination reports and other information compiled or generated by or for an agency that shares jurisdiction over the institution;
  - (d) contracting with an agency that shares jurisdiction over the institution to engage the services of its examiners at a reasonable rate of compensation;
  - (e) offering the services of the department's examiners at a reasonable rate of compensation to an agency that shares jurisdiction over the institution;
  - (f) collecting fees on behalf of, or receiving payment of fees through, an agency that shares jurisdiction over the institution; and
  - (g) cooperating in any other way with other supervisory agencies and professional associations to promote the efficient, safe, and sound operation and regulation of interstate depository institution activities, including the formulation of interstate examination policies and procedures and the drafting of model laws, rules, and agreements.

- (4) A contract between the department and an agency that shares jurisdiction over a depository institution to provide examiners to aid in interstate examination and regulation is considered a sole source contract under Section 63G-6a-802.

Amended by Chapter 347, 2012 General Session

**7-1-324 Debt cancellation agreements and debt suspension agreements.**

(1) As used in this section:

- (a) "Class of depository institution" means a class consisting of:
- (i) banks;
  - (ii) credit unions;
  - (iii) industrial banks; or
  - (iv) wholly owned subsidiaries of a depository institution listed in this Subsection (1)(a).
- (b) "Debt cancellation agreement" is as defined in Section 31A-21-109.
- (c) "Debt suspension agreement" is as defined in Section 31A-21-109.

(2) Subject to the other provisions of this section, the commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (a) authorize any member of a class of depository institution that is subject to the jurisdiction of the department to issue:
- (i) a debt cancellation agreement; or
  - (ii) a debt suspension agreement; and
- (b) regulate the issuance of a debt cancellation agreement or a debt suspension agreement issued in this state by a member of a class of depository institution.

- (3)
- (a) Any rule adopted by the commissioner under this section as applied to a class of depository institution shall be substantially similar to any federal regulation applying to the same class of depository institution.
- (b) Any rule adopted by the commissioner applicable to a class of depository institution described in this Subsection (3)(b) shall be substantially similar to any federal regulation applicable to a bank if no federal regulation authorizes or regulates the issuance of a debt cancellation agreement or debt suspension agreement for that class of depository institution.

- (4)
- (a) An out-of-state depository institution may issue a debt cancellation agreement or debt suspension agreement in this state if:
- (i) the home state of the out-of-state depository institution authorizes and regulates the issuance of a debt cancellation agreement or debt suspension agreement by the out-of-state depository institution; and
  - (ii) subject to Subsection (4)(b), the out-of-state depository institution complies with regulations from the out-of-state depository institution's home state that regulate the issuance of a debt cancellation agreement or a debt suspension agreement.
- (b) Notwithstanding Subsection (4)(a), an out-of-state depository institution described in Subsection (4)(a) shall comply with rules adopted by the commissioner under this section that regulate the issuance of a debt cancellation agreement or a debt suspension agreement in this state by the class of depository institution to which the out-of-state depository institution belongs if the regulations of the out-of-state depository institution's home state do not provide at least the same level of protection with respect to a debt cancellation agreement or debt suspension agreement as the rules adopted by the commissioner under this section with respect to the same class of depository institution:

- (i) for the safety and soundness of the depository institution; and
- (ii) for consumer protections for the borrowers of the depository institution.

Amended by Chapter 73, 2013 General Session

**7-1-325 Compliance with applicable federal law.**

- (1) As used in this section, "federal law" means:
  - (a) a statute passed by the Congress of the United States; or
  - (b) a final regulation:
    - (i) adopted by an administrative agency of the United States government; and
    - (ii) published in the code of federal regulations or the federal register.
- (2)
  - (a) An institution subject to the jurisdiction of the department violates this title if the institution violates a federal law:
    - (i) that is applicable to the institution; and
    - (ii) pursuant to the terms of the federal law in effect on the day the institution violates the federal law.
  - (b) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this title, designate which one or more federal laws are applicable to an institution subject to the jurisdiction of the department.
- (3) Except for criminal penalties, the department may enforce a violation described in Subsection (2) by taking any action:
  - (a) permitted by:
    - (i) this part;
    - (ii) Chapter 2, Possession of Depository Institution by Commissioner;
    - (iii) Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies;
    - (iv) in the case of a check casher or deferred deposit lender, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act; or
    - (v) in the case of a title lender, Chapter 24, Title Lending Registration Act; and
  - (b) including bringing an action permitted under this title in state court.

Amended by Chapter 96, 2008 General Session

Amended by Chapter 382, 2008 General Session